

Reconsideration and allowance of this application are respectfully requested in light of the following remarks.

35 U.S.C. §103(a) Rejections

Claims 1–24 stand rejected under 35 U.S.C. 103(b) as being unpatentable over the Hullinger Reference (U.S. Patent No. 6,295,092, hereinafter “Hullinger”). Applicants respectfully submit that the pending claims are patentable for at least the following reasons.

Hullinger, as read by the applicants, relates to a system that automatically captures one or more local news program broadcasts and separates the broadcasts into the individual news stories or segments. The system then compares the stories to historical data concerning the competitive characteristics of the stories and determines the topic of the stories.

Hullinger fails to teach, show or disclose a text classifier controller capable of reading text having at least one keyword contained within at least one story segment within said text, and capable of identifying keywords within each line of said text, and, in response to identifying at least one of said keywords within a line of text, classifying said line of text as a part of said at least one story segment within said text, as specifically recited in independent claim 1. Independent claims 7, 13 and 19 recite similar limitations.

As indicated by the Examiner, Hullinger fails to teach identifying keywords in a line of text.

Although, Hullinger teaches that each of the characters in a line of text is examined to determine if it is a valid character and also scores words or groups of words, it does not teach identifying keywords within each line of said text, and, in response to identifying at least one of said keywords within a line of text, classifying said line of text as a part of said at least one story segment within said text. Applicants respectfully note that is similar to the prior art described in the specification on page 2, lines 8-19.

As indicated by the Examiner, Hullinger uses the phase segment keyword in FIG. 10, however, it is not clear from either FIG. 10 or the specification, see col. 10, line 51 through col. 11, line 5, what this is in reference to. In fact, the description of FIG. 10 simply states it is a database structure and the interoperation of the elements are not described. Applicants respectfully request the Examiner explain of how the segment keyword of FIG. 10 of Hullinger relates to the Applicant's invention.

Still further, Applicant respectfully disagrees with the Office Action's conclusion that these teachings of Hullinger suggests, implies or teaches the claimed limitation of identifying keywords within each line of said text, and, in response to identifying at least one of said keywords within a line of text, classifying said line of text as a part of said at least one story segment within said text, as specifically recited in independent claim 1. Moreover, the Office Action does not provide a rationale for the modification, only a conclusion (namely, that it would be useful to do). In In re Lee, Slip Op. 00-1158 (Fed. Cir. Jan. 18, 2002) the court indicated that:

The determination of patentability on the ground of unobviousness is ultimately one of judgment. In furtherance of

the judgmental process, the patent examination procedure serves both to find, and to place on the official record, that which has been considered with respect to patentability. In finding the relevant facts, in assessing the significance of the prior art, and in making the ultimate determination of the issue of obviousness, the examiner and the Board are presumed to act from this viewpoint. Thus when they rely on what they assert to be general knowledge to negate patentability, that knowledge must be articulated and placed on the record. The failure to do so is not consistent with either effective administrative procedure or effective judicial review. The board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.

Further, Applicants respectfully submit that there would have been no motivation for one of ordinary skill to attempt to such a modification, as indicated in the Office Action, without improper hindsight by "use[ing] the claimed invention itself as a blueprint for piecing together elements in the prior art to defeat the patentability of the claimed invention," see *In Re Denis Rouffet*, 47 USPQ.2d 1453, 1457-58 (Fed. Cir. 1998), and no motivation has been provided by the Office Action to show reasons that the skilled artisan, confronted with the same problems as the inventor would select the elements from the cited prior art references for combination in the manner claimed, see *Id.*

Applicants respectfully note that it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. See *In re Fine*, 837 F.2d 1071, 1073, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set for in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), and to provide a reason why one having

ordinary skill in the pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir.), cert. denied, 488 U.S. 825 (1988). These showings by the Examiner are an essential part of complying with the burden of presenting a prima facie case of obviousness. Note In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). Applicants respectfully submit that a prima facie case of obviousness has not been established.

A review of the other art of record has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as a reference against the independent claims herein. These claims are therefore believed patentable over the art of record.

The other claims in this application are each dependent from the independent claim discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of the patentability of each on its own merits is respectfully requested.

Therefore Applicant respectfully requests that the Examiner withdraw the above-stated rejections of the claims.

Reconsideration and withdrawal of these grounds of rejection are respectfully submitted.

CONCLUSION


For all of the foregoing reasons, it is respectfully submitted that the present Application is in condition for allowance, and a notice to that effect is respectfully solicited.

If any issues remain which may be best resolved through a telephone communication, the Examiner is requested to kindly telephone the undersigned telephone number listed below.

Respectfully submitted,

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